

STATE BOARD OF LAND COMMISSIONERS

Philip E. Batt, Governor and President of the Board
Pete T. Cenarrusa, Secretary of State
Alan G. Lance, Attorney General
J. D. Williams, State Controller
Anne C. Fox, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

MINUTES REGULAR LAND BOARD MEETING January 13, 1998

The regular meeting of the Idaho State Board of Land Commissioners was held on January 13, 1998, in Boise, Idaho. The Honorable Philip E. Batt presided. The following members were present.

Honorable Secretary of State Pete T. Cenarrusa
Honorable Attorney General Alan G. Lance
Honorable State Controller J.D. Williams
Honorable Superintendent of Public Instruction Anne C. Fox

Secretary Stanley F. Hamilton

The meeting convened at 9:05 AM and adjourned at 1:00 PM.

CONSENT AGENDA

The following Consent Agenda was approved in its entirety upon a motion by Superintendent Fox and seconded by Controller Williams. The motion carried on a vote of 5-0.

1. The following official transactions were approved:
 - A. Bureau of Range Management and Surface Leasing Official Transactions for Cropland, Grazing, Cottage Site, Miscellaneous, and Submerged Land Leases for the month of November 1997.
 - B. Official Transactions for the Bureau of Real Estate, Easement Section for November 1997.
 - C. Land Sale Section, Official Transactions for the Bureau of Real Estate for November 1997
 - D. Bureau of Minerals Official Transactions for November 1997
 - E. Timber Sale Official Transactions for the period November 22, 1997 through December 24, 1997.

2. The following timber sales were approved:

A.	West Homestead	CR-1-0286	950 MBF
B.	East Fork Divide	CR-4-0633	3,760 MBF
C.	Homestead	CR-4-0647	1,740 MBF
D.	Rabbit Creek	CR-4-0676	800 MBF

3. The following applications for addition to the qualified bidders list, timber sales were approved:

Roger D. Humphrey
dba Fleet Unlimited Co.
2900 Government Way, #209
Coeur d'Alene, ID 83835

Rayonier Inland Wood Products
P.O. Box 349
Plummer, ID 83851

4. The following Land Board minutes were approved:

September 9, 1997 Regular Land Board Meeting
October 21, 1997 Regular Land Board Meeting
November 19, 1997 Regular Land Board Meeting

5. The Supplemental Agreement request for 1998 installment on Land Sale Certificate No. 25735 (Old No. 25136-AA), Karl & Janet Smith, Public School Endowment was approved.
6. The Cropland Lease C-9775 Auction Report was approved.

REGULAR AGENDA

7. Audience with the Board
Requested by Castle Creek Lessees

Director Hamilton introduced Mr. Nick Pasco who is involved in the Castle Creek decision. Mr. Pasco provided a handout regarding the economic impacts of the Castle Creek Decisions and also the economic impact of the BLM staff preferred alternative C for the Owyhee Resource Management Plan.

Mr. Pasco thanked the department for their assistance. Governor Batt asked Mr. Pasco if he was saying that with this economic cost to the state, the department should have been more heavily involved in the decision. Mr. Pasco said that was true. He said the department should

have been involved because of the impact on state lands. Superintendent Fox asked if the department should have been assigned to take an active role.

Mr. Pasco said that a team was suggested to do the monitoring. This team would be comprised of people from the Idaho Department of Lands, Department of Agriculture, BLM and perhaps from the county so everyone would know what was involved. He said he felt there would be a better understanding of what was going on. Director Hamilton stated that the department is supportive of this concept. He also said the department did not get as actively involved early on in the Castle Creek problem, as it should have. At the request of the lessees, the department met with them late last year. The department understands the need to be involved, and intend to stay involved with Castle Creek, the Owyhee Resource Management Area process and any other others that may be down the road.

Director Hamilton stated that the state couldn't get involved in the lawsuit, however, Stephanie Balzarini, legal counsel for the department has been tracking this issue, participating when she can. We are not a party in the lawsuit and will probably not become a party in the lawsuit, but the department can discuss issues with the BLM and others.

Director Hamilton stated that the department has a much bigger stake in the Owyhee Resource Management Area process. This is just getting started. The state has about 130,000 acres involved in this issue. There are some fairly large blocks of land in this area.

Mr. Pasco said the lessees would like to see the department monitor the situation and discuss issues with the lessees.

8. Director's Report

Presented by Stan Hamilton, Director, Idaho Department of Lands

Controller Williams at the Last Land Board meeting suggested this information be provided monthly. The report provides information summarizing endowment receipts. Controller Williams asked that this report include one more column – the total endowment fund at the beginning of the month, how much was contributed, and the total balance. Director Hamilton stated the department would continue to add to this report.

9. Proposed 1998 Legislation

Presented by Stan Hamilton, Director, Idaho Department of Lands

Yvonne Ferrell, Director of Parks and Recreation and Representative Max Black were present for the discussion on the legislation for Parks and Recreation. The purpose of this piece of legislation is to take state property around Ponderosa Park and find a way to transfer title, through land exchange, to state parks. Appropriation is being requested from legislature. The amount is undetermined. Governor Batt said he is requesting an appropriation for this purpose. The motion was made by Controller Williams and seconded by Superintendent Fox to approve the proposal for Ponderosa State Park. The motion carried on a vote of 5-0.

The next piece of legislation has to do with the exchange of similar lands. Attorney General Lance suggested that it would be prudent on Subsection 3 to include the words – unless otherwise provided for by rule or contract. This language should give the flexibility to the Land Board to negotiate this type of deal. The motion was made by Attorney General Lance and seconded by Secretary of State Cenarrusa to approve the recommendation of the department relative to Idaho Code, Section 58-138 adding thereto the language as specified. The motion carried on a vote of 5-0.

The third piece of legislation has to do with long-term leasing. Director Hamilton stated that this bill is still in progress and would like the consent of the Board for the concept. He also asked for suggestions for additional work to be done on it. This piece of legislation basically allows the Land Board and the department to enter into long-term leases for commercial purposes only. It specifies which parcels of endowment land can be used for commercial purposes for the long-term version. There was significant discussion regarding this piece of legislation. Controller Williams said it is time to propose a new piece of legislation that basically outlines the parameters of what the Land Board can do and then giving the Land Board the discretion to do it. Attorney General Lance said this needs to be accomplished quickly. The Governor appointed Attorney General Lance and Controller Williams to a sub-committee to move forward on this issue.

The last piece of legislation is a copy of the draft legislation received by the department from the interim committee that is looking at endowment investment reform. Director Hamilton suggested that the Land Board might want to set up a sub-committee to take a look at this legislation. He said department staff would be willing to help. Governor Batt asked that Attorney General Lance and Controller Williams serve on a sub-committee to look at this legislation.

10. Simplot Company Lease/Land Exchange near Mountain Home
Presented by Perry Whittaker, Real Estate Bureau Chief

Mr. Whittaker provided the background information on this item. At the December 9, 1997 meeting of the Land Board directed the department to work with representatives of the J.R. Simplot Company to develop a proposed land exchange and interim lease for state endowment land located near Mountain Home, ID. Since that time, department staff and legal counsel have worked with J.R. Simplot Company to further refine a proposed land exchange and the interim lease for state endowment lands.

The documents that require approval of the Land Board at this time include a proposed agreement to initiate land exchange and the interim lease along with the associated interim commercial lease. The land exchange interim lease document is an umbrella agreement.

Department staff has completed an appraisal to use in setting the lease rental. Rental is proposed to be 10% of the appraised amount for the 180 acres.

Attorney General Lance asked if the exchange property was mostly timbered land. Mr. Whittaker stated that it is timbered property. Governor Batt asked about the quality of the timber. Mr. Whittaker stated that it is good. The land exchange agreement will require, as a part of the exchange, a timber cruise to see what kind of timber is there. This is approval to start working on the exchange and the exchange will be brought back to the Land Board for final approval.

State Controller Williams said one real value of this exchange is the proposed highway. This will be on a major interchange, on the freeway, 45 minutes from Boise. This will open about 3 miles of new frontage on state land that could be incredibly valuable to the state.

Superintendent Fox said the opportunity for commercial development shows good foresight. She did ask if there was a possibility of trading for a comparable site with commercial value. Mr. Whittaker stated that the timberland in the Dry Buck area is property the department has been interested in for a considerable period of time.

Attorney General Lance asked how many jobs were being anticipated at this new facility. Chuck Jones from Simplot stated that 3-4 permanent employees were anticipated.

The motion was made by Controller Williams and seconded by Superintendent Fox to approve the recommendation of the department. The motion carried on a vote of 5-0.

11. 1997 Conflicted Grazing Leases, Determination of Acceptable Lease Applications/
Qualified Bidder Status
Presented by Tracy Behrens, Range Management Specialist

Mr. Behrens stated that this issue concerns the conflict grazing lease applications filed on the 1997 expiring grazing leases. There are 16 conflicted leases with 34 individual applications. With respect to each application, the Land Board must decide:

1. whether to accept the application for further processing and;
2. whether the applicants whose applications are accepted are qualified to bid at a conflict auction.

Mr. Behrens gave a brief summary of the process the Land Board will follow with respect to the applications. He then proceeded to the separate action items.

ACTION ITEM 1

These applications are for grazing leases of state lands that are managed together with adjacent federal or state land – typically scattered parcels of state land located in allotments administered by the BLM or Forest Service.

There were eight (8) leases in this category – G-5712, G-6506, G-6507, G-6517, G-6560, G-6678, G-7221 and G-7398.

The motion was made by Attorney General Al Lance and seconded by Secretary of State Cenarrusa to accept the recommendation of the department that the leases be awarded to the current lessee.

At this time, discussion was held regarding the procedures that the department uses for qualifying applicants. Controller Williams commended the department for following steps as requested for clarification and equal treatment.

The motion carried on a vote of 5-0.

ACTION ITEM 2

These applications are for grazing leases of state lands that are managed together with adjacent federal land in a grazing allotment administered by the BLM

There were two (2) leases in this category – G-6498 and G-6317

Attorney General Lance asked if prior to assignment, did the department have a vegetation management or grazing plan in place. Mr. Behrens stated that Simplot did submit a vegetation management plan in conjunction with their original lease application that covered all the sections in the expiring lease. The department assumed the manner those sections were addressed in the original proposal would be transferred to the new lease. Attorney General Lance asked that the department have something in writing for the new lease.

The motion was made by Attorney General Lance and seconded by Superintendent Fox to accept the recommendation of the department that these conflict leases proceed to auction. The motion carried on a vote of 5-0.

ACTION ITEM 3

These applications are for grazing leases of state lands that are fenced and/or used separate from adjacent or nearby federal or state land.

There were four leases in this category – G-5370, G-8055, G-8828, G-9325.

The department recommended, on lease G-5370, that Idaho Watersheds Project is disqualified for not having an acceptable management plan and that Mr. Charles Guess is issued a ten-year lease.

The department recommended on all other leases in this category to schedule auctions between the recommended qualified applicants.

The motion was made by Attorney General Lance and seconded by Superintendent Fox to adopt the recommendation of the department. The motion carried on a vote of 5-0.

ACTION ITEM IV

These applications are for grazing leases for large blocks of state land currently managed in conjunction with adjacent federal land but capable of being managed independently.

Mr. Behrens submitted a supplemental revised recommendation to replace the one provided at the briefing meeting on Tuesday, January 6, 1998.

Lease G-5687:

The department recommended that Idaho Watershed Project/Payette Forest Watch Inc., be disqualified for not presenting an acceptable management proposal. The proposal does not reflect a serious intent to manage the state land for livestock use and does not provide any real opportunity to manage the vegetation.

The department further recommended that Soulen Livestock Co. and Mr. Frank Loomis be qualified and that an auction be scheduled.

Mr. Soulen of Soulen Livestock Co. addressed the board and explained how loss of this lease would be disruptive to their operation. Mr. Soulen uses the property to trail sheep through to other pastures along with a Forest Service allotment. Mr. Frank Loomis addressed the board and asked to have a chance to bid at auction because he needs the additional land for his livestock. He would use the property as a solid unit the entire summer for grazing his sheep.

Secretary of State asked Mr. Behrens if both applicants complied with all provisions of 58-310 in all aspects. Mr. Behrens stated they have complied with all the criteria the department has identified. That is why the department has recommended that they both have their applications accepted and both are determined to be qualified applicants.

Director Hamilton stated that there are two leases involved in this action item. Governor Batt suggested that the leases be handled separate. The Board agreed.

Attorney General Lance made the "original motion" relative to lease G-5687, to adopt the recommendation of the department, with an explanation. Secretary of State Cenarrusa seconded the motion. Attorney General Lance said Mr. Soulen was a good steward of the land. Mr. Loomis is a proven operator who apparently is willing to abide by the range management plan, the vegetation management plan and has expressed a desire to have a fair shot at bidding at this parcel. Controller Williams stated that he would normally go along with the motion, but he stated that he felt there were some unique things about this particular lease – called location. The state has a huge investment in McCall and Payette Lake. Here we have over 10,000 acres in immediate watershed, the little Payette Lake that goes right into Payette. We have two operators – one that will operate on a portion of it for a period and leave and then come back so there will be rest involved. The other that would operate on it for the bulk of the grazing period. He stated that he did not feel it would be in the best interest to change operators on this particular lease. Attorney General Lance and Secretary of State Cenarrusa

voted aye, Controller Williams and Superintendent Fox voted nay. The Governor disqualified himself from this vote due to a friendship with Mr. Soulen.

Secretary of State Cenarrusa asked if he could change his vote. He explained the reason for the change. He stated that he felt the operation fits the Soulen Livestock plan better and if this would come back on an appeal, he would vote for Mr. Soulen.

Attorney General Lance stated that the Land Board has an obligation to maximize return to the endowment fund. This is a constitutional obligation that has been imposed. Until the board can establish fair market value, at least a broad bracket range, by free enterprise, he stated that he did not know how this could be done. He stated that to allow Mr. Loomis and Mr. Soulen to bid, the board would at least have a better understanding as to what the fair market value of this parcel is. Understanding that Mr. Soulen has some unique circumstances that may require the board at some point to deny Mr. Loomis' bid. But at least this would not be done in the dark, the board would know what the property is worth through the free enterprise system.

Controller Williams said that the Attorney General made a good point about the endowment principle. If the board does not have competition, which is the best way to maximize the long-term return, we have to have a good reason that we can articulate. He said his reason was the location next to Payette Lake, a huge watershed, and the topography. This is very steep ground – not good growing ground. There are a lot of watercourses through the lease that are tributary to the lake. Because of our investment from an endowment viewpoint, in the lots at McCall and all of our other timber holdings around the lake, we have to be very careful when we look at something this sensitive. When you apply the long-term endowment principle, we may be giving up a few dollars, but he said he felt it could be justified. Controller Williams suggested that perhaps the department might be able to find other property to assist Mr. Loomis.

Governor Batt said he saw no indication that Mr. Loomis would not do a good job. Controller Williams said rest is critical on the land. Attorney General Lance said that what we are talking about is making award of the lease at this time because all competitive bidders would be disqualified. He asked if it would be considered to issue a temporary permit for a lesser period of time.

Attorney General Lance moved to grant Mr. Soulen a temporary permit for a period of two years. The motion died for lack of a second.

Governor Batt asked permission to withdraw the original motion.

Secretary of State Cenarrusa asked Mr. Behrens if there were any other state land in the proximity of Mr. Loomis that might be available for him. Director Hamilton suggested asking Mr. Sila of the Payette area. Mr. Sila said there is nothing available with this many acres. There are some small pieces around – none of which are good for grazing.

Governor Batt stated that the original motion failed 2-2.

Superintendent Fox made a motion to give Soulen Livestock the lease for a ten-year period. She clarified her motion. She said there is a strong relationship with the state and USFS lands. This would disrupt his operation a great deal. He is a proven operator who has been a good steward of the land.

Director Hamilton stated that the issue before the board is qualification of applicants for bidding. A motion to award would be premature without disqualifying Mr. Loomis. Superintendent Fox reworded her motion. She made a motion to disqualify Mr. Loomis and IWP and Forest Watch. Controller Williams seconded the motion.

Secretary of State Cenarrusa stated that he would not go along with that. He asked for reconsideration. He said he did change his vote and asked that it go back to the original motion. Mr. Loomis is qualified, however, if it came back to the board on an appeal, he would vote for Mr. Soulen.

Governor Batt said the original motion failed because of a tie. After discussion, Governor Batt said that Secretary of State Cenarrusa had changed his vote and the motion failed on a vote of 3-1 with the Governor abstaining.

Superintendent Fox restated her previous motion to not qualify Mr. Loomis and IWP/Payette Forest Watch Inc. Controller Williams restated his second.

Governor Batt asked if this question could be resolved by putting this vote off for a month and finding out exactly what the impacts would be on the land. Controller Williams suggested that he would like to look at this property. Put the vote off for a year and issue Mr. Soulen a temporary permit.

Controller Williams made a substitute motion to defer action on this lease for one year. A temporary permit be issued to Soulen Livestock to operate for the coming grazing year. This will give the board the opportunity to personally visit the property and make a judgment on the sensitivity of the area. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 4-0 with the previous motion being tabled and the Governor abstaining from the vote.

Lease G-6257:

Currently leased to Ted Gammett, who uses it in conjunction with his base ranch for cattle winter grazing. Two conflict applications were received on this parcel – Mr. Larry Flynn and Mr. Frank Shirts.

The reason for the board memorandum changing at the last minute is because both of these individuals submitted written statements to the department last Friday indicating that they would adhere to the department's current management on that parcel.

The department recommends the scheduling of an auction between Ted Gammett, Larry Flynn and Frank Shirts to determine who will pay the highest premium bid.

Superintendent Fox left the meeting at 12:30 p.m.

Attorney General Lance asked the department why the Land Board is looking at this lease on January 13. The lease is expired and this is a January lease with a land usage of January, February and March. Director Hamilton stated that the department wanted to bring these conflict applications to the board in October. The recommendation to the department was to wait for the outcome of a lawsuit before coming to the board. The issue raised was over process and the department wanted to insure that if there were any changes in process the department could deal with it.

Attorney General Lance apologized to Mr. Gammett for the delay. Controller Williams stated that hopefully by moving the dates for filing conflicts up to the end of April, the department will have more time to deal with these. He stated that he felt an injustice was being done to Mr. Gammett in this situation.

The motion was made by Secretary of State Cenarrusa to issue Mr. Gammett a temporary permit for one year. Controller Williams seconded the motion. The motion carried on a vote of 4-0 with Superintendent Fox being absent.

12. Whittaker Grazing Lease

Presented by Tracy Behrens, Range Management Specialist

Mr. Tracy Behrens provided the background information. At the December 18, 1996 Special Board meeting, the Board deferred action on the applications filed on lease G-9360. Mr. Whittaker was issued a one-year Temporary Permit for the 1997-grazing season. The permit expired December 31, 1997.

The questions that the department was to address were allowable improvement credit that Mr. Whittaker stated he had and to get confirmation regarding his use of the parcel. The department worked with Mr. Whittaker throughout the year to address his management concerns and his questions concerning improvement. The department reached agreement with him.

The department recommended that the board qualify Mr. Whittaker on the grounds that he held the grazing lease and one-year temporary permit for this parcel of land. He has proved that he is a qualified applicant. The department recommended that IWP be disqualified for failing to submit a management proposal that is acceptable to the department. The department further recommended that Mr. Whittaker be issued a ten-year grazing lease.

Controller Williams stated that the Land Board has had opportunity to review this issue and moved to accept the recommendation of the department. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 4-0 with Superintendent Fox being absent.

INFORMATION AGENDA

These agenda items are for informational purposes only and do not require any action by the Land Board.

13. Timber sale activity report
14. Interest rate update
15. Triumph Mine update
16. Gypsy Moth Report
17. Briefing on the BLM Castle Creek Allotment

Attorney General Lance moved to resolve into executive session. Controller Williams seconded the motion. The motion carried on a vote of 4-0 with Superintendent Fox being absent.

EXECUTIVE SESSION

Two issues were discussed in Executive Session.

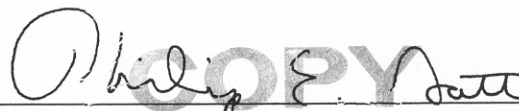
18. Contux Creek Timber Sale
Presented by Winston Wiggins, Assistant Director, Forestry and Fire and
Stephanie Balzarini, IDL Deputy Attorney General

The second item in Executive Session was a briefing of some new developments related to the Auger Falls case. Nick Krema, Deputy Attorney General, gave this update.

Executive Session ended at 1:00 p.m. and returned to Regular Session.

There being no further business to be brought before the board, the meeting adjourned at 1:00 p.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS



President, State Board of Land Commissioners and
Governor of the State of Idaho

Pete T. Cenarrusa
COPY

Pete T. Cenarrusa
Secretary of State



Stanley F. Hamilton
COPY

Stanley F. Hamilton
Director, Idaho Department of Lands